

AMENDED IN ASSEMBLY SEPTEMBER 5, 2007

AMENDED IN SENATE MAY 24, 2007

AMENDED IN SENATE APRIL 30, 2007

AMENDED IN SENATE APRIL 9, 2007

SENATE BILL

No. 974

Introduced by Senator Lowenthal

(Principal coauthor: Assembly Member De La Torre)

(Coauthors: Senators Kehoe, Kuehl, Migden, and Steinberg)

(Coauthors: Assembly Members Carter, DeSaulnier, Eng, Hancock,
and ~~Karnette~~ *Karnette, and Solorio*)

February 23, 2007

~~An act to add Article 10 (commencing with Section 63049.70) to Chapter 2 of Division 1 of Title 6.7 of the Government Code, to amend *An act to amend* and renumber Section 1760 of, to add a heading to Chapter 1 (commencing with Section 1720) of, and to add Chapter 2 (commencing with Section 1740) to, Part 2 of Division 6 of, the Harbors and Navigation Code, relating to ports, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 974, as amended, Lowenthal. Ports: congestion relief: ~~environmental air pollution~~ mitigation: regulatory fee.

(1) Existing law regulates the operation of ports and harbors.

This bill would require the Ports of Los Angeles, Long Beach, and Oakland to collect a user fee on the owner of container cargo moving through the Port of Los Angeles, the Port of Long Beach, or the Port of Oakland at a rate of \$30 per twenty-foot equivalent unit (TEU).

The bill would require the Ports of Los Angeles and Long Beach (*San Pedro Bay Ports*) to transmit $\frac{1}{2}$ of the funds derived from imposition of the fee to the ~~Southern California Port~~ *San Pedro Bay Ports* Congestion Relief Trust Fund, ~~which the bill would establish in the State Treasury,~~ and $\frac{1}{2}$ to the ~~Southern California Port~~ *San Pedro Bay Ports* Mitigation Relief Trust Fund, ~~which funds the bill would~~ *San Pedro Bay Ports would be required to establish in the State Treasury.* The bill would require the Port of Oakland to transmit $\frac{1}{2}$ of the funds derived from imposition of the fee to the ~~Northern California Port~~ *Port of Oakland* Congestion Relief Trust Fund, ~~which the bill would establish in the State Treasury,~~ and $\frac{1}{2}$ to the ~~Northern California Port~~ *Port of Oakland* Mitigation Relief Trust Fund, ~~which funds the bill would~~ *Port of Oakland would be required to establish in the State Treasury.*

The bill would require the moneys transmitted to the ~~Southern California Port~~ *San Pedro Bay Ports* Congestion Relief Trust Fund and the ~~Northern California Port~~ *Port of Oakland* Congestion Relief Trust Fund to be available, ~~upon appropriation,~~ for expenditure by the California Transportation Commission exclusively for the purposes of funding projects that improve the flow and efficiency of container cargo to and from those ports, and funding the administrative costs of this program. The bill would prohibit moneys deposited in those funds from being loaned or transferred to, or allocated or appropriated in any other way to, the ~~General Fund~~ *general fund of specified local entities.* The bill would prohibit the commission from using the funds to construct, maintain, or improve highways, with certain exceptions.

The bill would require the moneys transmitted to the ~~Southern California Port~~ *San Pedro Bay Ports* Mitigation Relief Trust Fund and the ~~Northern California Port~~ *Port of Oakland* Mitigation Relief Trust Fund to be available, ~~upon appropriation,~~ for expenditure by the State Air Resources Board to develop a list of projects to mitigate ~~environmental~~ *air* pollution caused by the movement of *container* cargo to and from those ports, and for the administration of this program. The bill would prohibit moneys deposited in those funds from being loaned or transferred to, or allocated or appropriated in any other way to, the ~~General Fund~~ *general fund of specified local entities.*

The bill would establish a state-mandated local program by imposing these additional duties upon the ports.

~~(2) Existing law sets forth the duties of the Infrastructure and Economic Development Bank and its board of directors generally in~~

~~performing various financing transactions, including the issuance of bonds.~~

~~This bill would authorize the bank to enter into financing agreements with participating parties to finance or refinance Southern California and Northern California port congestion relief projects and Southern California and Northern California port mitigation relief projects. The bank would be authorized to issue revenue bonds. User fees on container ships from the Southern and Northern California Port Congestion Relief Trust Funds and the Southern and Northern California Mitigation Relief Trust Funds would be continuously appropriated to the bank to secure any revenue bonds.~~

The bill would authorize the San Pedro Bay Ports and the Port of Oakland, through the City of Oakland, to enter into financing agreements with participating parties to finance or refinance San Pedro Bay Ports and Port of Oakland congestion and mitigation relief projects. The San Pedro Bay Ports and the Port of Oakland would be authorized to issue revenue bonds to fund these projects, and user fees on container cargo from the San Pedro Bay Ports and Port of Oakland Congestion Relief Trust Funds and the San Pedro Bay Ports and Port of Oakland Mitigation Relief Trust Funds would be used to secure any revenue bonds.

(3)

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~yes~~*no*. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Article 10 (commencing with Section 63049.70)~~
- 2 ~~is added to Chapter 2 of Division 1 of Title 6.7 of the Government~~
- 3 ~~Code, to read:~~

Article 10. ~~Financing of Port Congestion Relief and Port
Mitigation Relief~~

~~63049.70. The definitions contained in this section are in addition to the definitions contained in Section 63010 and together with the definitions contained in that section shall govern the construction of this article, unless the context requires otherwise:~~

~~(a) “Credit facility” means all obligations, including principal, interest, fees, costs, indemnities, and all other amounts incurred by the bank under or in connection with any credit enhancement or liquidity agreement, including a letter of credit, standby purchase agreement, reimbursement agreement, liquidity facility, or other similar arrangement entered into by the bank.~~

~~(b) “Northern California port congestion relief container fee revenue” means all of the following:~~

~~(1) Income and receipts derived by the bank from Northern California port congestion relief container fees.~~

~~(2) Interest and other income from investment of money in any fund or account established pursuant to an indenture for Northern California Port Congestion Relief Container Fee Revenue Bonds; other than any fund established to rebate investment earnings to the federal government.~~

~~(A) Amounts on deposit in these funds and accounts, other than any fund or account established to rebate investment earnings to the federal government and any fund or account established to hold the proceeds of a drawing on any liquidity or credit support facility for these bonds.~~

~~(B) Net income and net receipts derived by the bank on account of interest rate swaps with respect to these bonds.~~

~~(c) “Northern California Port Congestion Relief Container Fee Revenue Bonds” means revenue bonds issued pursuant to this article that are payable from Northern California port congestion relief container fee revenue.~~

~~(d) “Northern California port congestion relief container fees” means all user fees that are imposed pursuant to Section 1747 of the Harbors and Navigation Code and remitted to the Northern California Port Congestion Relief Trust Fund in the State Treasury.~~

~~(e) “Northern California port congestion relief project” means each project for public development facilities and economic development facilities for which the expenditure of funds has been~~

1 approved by the California Transportation Commission pursuant
2 to Section 1751 of the Harbors and Navigation Code.

3 (f) ~~“Northern California port mitigation relief container fee~~
4 ~~revenue” means all of the following:~~

5 (1) ~~Income and receipts derived by the bank from Northern~~
6 ~~California port mitigation relief container fees.~~

7 (2) ~~Interest and other income from investment of money in any~~
8 ~~fund or account established pursuant to an indenture for Northern~~
9 ~~California Port Mitigation Relief Container Fee Revenue Bonds;~~
10 ~~other than any fund established to rebate investment earnings to~~
11 ~~the federal government.~~

12 (A) ~~Amounts on deposit in these funds and accounts, other than~~
13 ~~any fund or account established to rebate investment earnings to~~
14 ~~the federal government and any fund or account established to~~
15 ~~hold the proceeds of a drawing on any liquidity or credit support~~
16 ~~facility for these bonds.~~

17 (B) ~~Net income and net receipts derived by the bank on account~~
18 ~~of interest rate swaps with respect to these bonds.~~

19 (g) ~~“Northern California Port Mitigation Relief Container Fee~~
20 ~~Revenue Bonds” means revenue bonds issued pursuant to this~~
21 ~~article that are payable from Northern California port mitigation~~
22 ~~relief container fee revenue.~~

23 (h) ~~“Northern California port mitigation relief container fees”~~
24 ~~means all user fees that are imposed pursuant to Section 1747 of~~
25 ~~the Harbors and Navigation Code and remitted to the Northern~~
26 ~~California Port Mitigation Relief Trust Fund in the State Treasury.~~

27 (i) ~~“Northern California port mitigation relief project” means~~
28 ~~each project for public development facilities and economic~~
29 ~~development facilities for which the expenditure of funds has been~~
30 ~~approved by the State Air Resources Board pursuant to Section~~
31 ~~1753 of the Harbors and Navigation Code.~~

32 (j) ~~“Southern California port congestion relief container fee~~
33 ~~revenue” means all of the following:~~

34 (1) ~~Income and receipts derived by the bank from Southern~~
35 ~~California port congestion relief container fees.~~

36 (2) ~~Interest and other income from investment of money in any~~
37 ~~fund or account established pursuant to an indenture for Southern~~
38 ~~California Port Congestion Relief Container Fee Revenue Bonds;~~
39 ~~other than any fund established to rebate investment earnings to~~
40 ~~the federal government.~~

1 ~~(A) Amounts on deposit in these funds and accounts, other than~~
2 ~~any fund or account established to rebate investment earnings to~~
3 ~~the federal government and any fund or account established to~~
4 ~~hold the proceeds of a drawing on any liquidity or credit support~~
5 ~~facility for these bonds.~~

6 ~~(B) Net income and net receipts derived by the bank on account~~
7 ~~of interest rate swaps with respect to these bonds.~~

8 ~~(k) “Southern California Port Congestion Relief Container Fee~~
9 ~~Revenue Bonds” means revenue bonds issued pursuant to this~~
10 ~~article that are payable from Southern California port congestion~~
11 ~~relief container fee revenue.~~

12 ~~(l) “Southern California port congestion relief container fees”~~
13 ~~means all user fees that are imposed pursuant to Sections 1745~~
14 ~~and 1746 of the Harbors and Navigation Code and remitted to the~~
15 ~~Southern California Port Congestion Relief Trust Fund in the State~~
16 ~~Treasury.~~

17 ~~(m) “Southern California port congestion relief project” means~~
18 ~~each project for public development facilities and economic~~
19 ~~development facilities for which the expenditure of funds has been~~
20 ~~approved by the California Transportation Commission pursuant~~
21 ~~to Section 1750 of the Harbors and Navigation Code.~~

22 ~~(n) “Southern California port mitigation relief container fee~~
23 ~~revenue” means all of the following:~~

24 ~~(1) Income and receipts derived by the bank from Southern~~
25 ~~California port mitigation relief container fees.~~

26 ~~(2) Interest and other income from investment of money in any~~
27 ~~fund or account established pursuant to an indenture for Southern~~
28 ~~California Port Mitigation Relief Container Fee Revenue Bonds,~~
29 ~~other than any fund established to rebate investment earnings to~~
30 ~~the federal government.~~

31 ~~(3) Amounts on deposit in these funds and accounts, other than~~
32 ~~any fund or account established to rebate investment earnings to~~
33 ~~the federal government and any fund or account established to~~
34 ~~hold the proceeds of a drawing on any liquidity or credit support~~
35 ~~facility for these bonds.~~

36 ~~(4) Net income and net receipts derived by the bank on account~~
37 ~~of interest rate swaps with respect to these bonds.~~

38 ~~(o) “Southern California Port Mitigation Relief Container Fee~~
39 ~~Revenue Bonds” means revenue bonds issued pursuant to this~~

1 article that are payable from Southern California port mitigation
2 relief container fee revenue.

3 ~~(p) “Southern California port mitigation relief container fees”~~
4 ~~means all user fees that are imposed pursuant to Sections 1745~~
5 ~~and 1746 of the Harbors and Navigation Code and remitted to the~~
6 ~~Southern California Port Mitigation Relief Trust Fund in the State~~
7 ~~Treasury.~~

8 ~~(q) “Southern California port mitigation relief project” means~~
9 ~~each project for public development facilities and economic~~
10 ~~development facilities for which the expenditure of funds has been~~
11 ~~approved by the State Air Resources Board pursuant to Section~~
12 ~~1752 of the Harbors and Navigation Code.~~

13 ~~63049.71. (a) The bank may enter into financing agreements~~
14 ~~with participating parties for the purpose of financing or~~
15 ~~refinancing Southern California port congestion relief projects and~~
16 ~~Southern California port mitigation relief projects.~~

17 ~~(b) The bank may issue bonds pursuant to this chapter as~~
18 ~~Southern California Port Congestion Relief Container Fee Revenue~~
19 ~~Bonds to finance or refinance Southern California port congestion~~
20 ~~relief projects and as Southern California Port Mitigation Relief~~
21 ~~Container Fee Revenue Bonds to finance or refinance Southern~~
22 ~~California port mitigation relief projects. The aggregate principal~~
23 ~~amount of the bonds that may be issued is unlimited, but the~~
24 ~~aggregate principal amount of the bonds that may be outstanding~~
25 ~~at any one time is five billion dollars (\$5,000,000,000). The~~
26 ~~revenue bonds may also be issued to finance necessary reserves,~~
27 ~~capitalized interest, credit enhancement costs, and costs of issuance~~
28 ~~of the revenue bonds. The last date for payment of principal of~~
29 ~~any revenue bond may not be more than 30 years after the date of~~
30 ~~issuance of the revenue bond.~~

31 ~~(c) Principal of and interest and redemption premiums on~~
32 ~~Southern California Port Congestion Relief Container Fee Revenue~~
33 ~~Bonds and Southern California Port Mitigation Relief Container~~
34 ~~Fee Revenue Bonds shall be payable from, and secured by,~~
35 ~~Southern California port congestion relief container fee revenue~~
36 ~~and Southern California port mitigation relief container fee~~
37 ~~revenue, respectively, as and to the extent provided in the~~
38 ~~constituent instruments defining the rights of the holders of the~~
39 ~~bonds.~~

1 ~~63049.72. (a) The bank may enter into financing agreements~~
2 ~~with participating parties for the purpose of financing or~~
3 ~~refinancing Northern California port congestion relief projects and~~
4 ~~Northern California port mitigation relief projects.~~

5 ~~(b) The bank may issue bonds pursuant to this chapter as~~
6 ~~Northern California Port Congestion Relief Container Fee Revenue~~
7 ~~Bonds to finance or refinance Northern California port congestion~~
8 ~~relief projects and as Northern California Port Mitigation Relief~~
9 ~~Container Fee Revenue Bonds to finance or refinance Northern~~
10 ~~California port mitigation relief projects. The aggregate principal~~
11 ~~amount of the bonds that may be issued is unlimited, but the~~
12 ~~aggregate principal amount of the bonds that may be outstanding~~
13 ~~at any one time is five billion dollars (\$5,000,000,000). The~~
14 ~~revenue bonds may also be issued to finance necessary reserves;~~
15 ~~capitalized interest, credit enhancement costs, and costs of issuance~~
16 ~~of the revenue bonds. The last date for payment of principal of~~
17 ~~any revenue bond may not be more than 30 years after the date of~~
18 ~~issuance of the revenue bond.~~

19 ~~(c) Principal of and interest and redemption premiums on~~
20 ~~Northern California Port Congestion Relief Container Fee Revenue~~
21 ~~Bonds and Northern California Port Mitigation Relief Container~~
22 ~~Fee Revenue Bonds shall be payable from, and secured by,~~
23 ~~Northern California port congestion relief container fee revenue~~
24 ~~and Northern California port mitigation relief container fee revenue,~~
25 ~~respectively, all as and to the extent provided in the constituent~~
26 ~~instruments defining the rights of the holders of the bonds.~~

27 ~~63049.73. (a) The bank may pledge all or any portion of the~~
28 ~~Southern California port congestion relief container fees to secure~~
29 ~~Southern California Port Congestion Relief Container Fee Revenue~~
30 ~~Bonds, and credit facilities for these bonds, and all or any portion~~
31 ~~of the Southern California port mitigation relief container fees to~~
32 ~~secure Southern California Port Mitigation Relief Container Fee~~
33 ~~Revenue Bonds, and credit facilities for these bonds. All Southern~~
34 ~~California port congestion relief container fees and Southern~~
35 ~~California port mitigation relief container fees so pledged are~~
36 ~~hereby continuously appropriated, notwithstanding Section 13340,~~
37 ~~without regard to fiscal years, to the bank, and, if the bank so~~
38 ~~directs, shall be paid to the indenture trustee for these bonds each~~
39 ~~month, from the Southern California Port Congestion Relief Trust~~
40 ~~Fund and the Southern California Port Mitigation Relief Trust~~

1 Fund for so long as any of the bonds are outstanding. Any Southern
2 California port congestion relief container fees and Southern
3 California port mitigation relief container fees that are not required
4 to be retained by the indenture trustee pursuant to the constituent
5 instruments defining the rights of the holders of the bonds shall
6 be remitted by the indenture trustee to the Southern California Port
7 Congestion Relief Trust Fund and the Southern California Port
8 Mitigation Relief Trust Fund and shall be disbursed at the request
9 and direction of the California Transportation Commission and
10 the State Air Resources Board, respectively, for Southern California
11 port congestion relief projects and Southern California port
12 mitigation relief projects that are not being financed with revenue
13 bonds issued by the bank, and these funds are available upon
14 appropriation by the Legislature, for that purpose.

15 (b) The state hereby pledges to and agrees with the holders of
16 revenue bonds issued pursuant to this article, and each provider
17 of a letter of credit, standby purchase agreement, reimbursement
18 agreement, liquidity facility, or other similar arrangement for the
19 benefit of the revenue bonds, that the state will not limit, alter, or
20 restrict each pledge of Southern California port congestion relief
21 container fees and Southern California port mitigation relief
22 container fees permitted hereby and any other terms of any
23 agreement made with or for the benefit of the holders of the
24 revenue bonds or the providers or in any way impair the rights or
25 remedies of the holders of the bonds or the providers or reduce or
26 terminate the fees while any of the bonds remain outstanding.

27 63049.74. (a) The bank may pledge all or any portion of the
28 Northern California port congestion relief container fees to secure
29 Northern California Port Congestion Relief Container Fee Revenue
30 Bonds, and credit facilities for these bonds, and all or any portion
31 of the Northern California port mitigation relief container fees to
32 secure Northern California Port Mitigation Relief Container Fee
33 Revenue Bonds, and credit facilities for these bonds. All Northern
34 California port congestion relief container fees and Northern
35 California port mitigation relief container fees so pledged are
36 hereby continuously appropriated, notwithstanding Section 13340,
37 without regard to fiscal years, to the bank, and, if the bank so
38 directs, shall be paid to the indenture trustee for the bonds each
39 month, from the Northern California Port Congestion Relief Trust
40 Fund and the Northern California Port Mitigation Relief Trust

1 Fund for so long as any of the bonds are outstanding. Any Northern
2 California port congestion relief container fees and Northern
3 California port mitigation relief container fees that are not required
4 to be retained by the indenture trustee pursuant to the constituent
5 instruments defining the rights of the holders of the bonds shall
6 be remitted by the indenture trustee to the Northern California Port
7 Congestion Relief Trust Fund and the Northern California Port
8 Mitigation Relief Trust Fund and shall be disbursed at the request
9 and direction of the California Transportation Commission and
10 the State Air Resources Board, respectively, for Northern California
11 port congestion relief projects and Northern California port
12 mitigation relief projects that are not being financed with revenue
13 bonds issued by the bank, and these funds are available upon
14 appropriation by the Legislature, for that purpose.

15 (b) The state hereby pledges to and agrees with the holders of
16 revenue bonds issued pursuant to this article, and each provider
17 of a letter of credit, standby purchase agreement, reimbursement
18 agreement, liquidity facility, or other similar arrangement for the
19 benefit of the revenue bonds, that the state will not limit, alter, or
20 restrict each pledge of Northern California port congestion relief
21 container fees and Northern California port mitigation relief
22 container fees permitted hereby and any other terms of any
23 agreement made with or for the benefit of the holders of the
24 revenue bonds or the providers or in any way impair the rights or
25 remedies of the holders of the bonds or the providers or reduce or
26 terminate the fees while any of the bonds remain outstanding.

27 63049.75. Notwithstanding any other provision of law, Article
28 3 (commencing with Section 63040), Article 4 (commencing with
29 Section 63042), and Article 5 (commencing with Section 63043)
30 of this chapter do not apply to any financing provided by the bank
31 pursuant to this article, and the principal amount of revenue bonds
32 issued pursuant to this article and Chapter 5 (commencing with
33 Section 63070) shall not count against the limit stated in the first
34 sentence of subdivision (b) of Section 63071.

35 SEC. 2.

36 SECTION 1. The heading of Chapter 1 (commencing with
37 Section 1720) is added to Part 2 of Division 6 of the Harbors and
38 Navigation Code, immediately preceding Section 1720, to read:

39
40 CHAPTER 1. PORT FACILITY CONSTRUCTION

~~SEC. 3.~~

SEC. 2. Chapter 2 (commencing with Section 1740) is added to Part 2 of Division 6 of the Harbors and Navigation Code, to read:

CHAPTER 2. PORT CONGESTION RELIEF AND PORT MITIGATION
RELIEF

Article 1. General Provisions

1740. The Legislature hereby finds and declares all of the following:

(a) There is a need to mitigate the enormous burden imposed on the highway transportation system serving the Ports of Los Angeles, Long Beach, and Oakland by the overland movement of *container* cargo shipped ~~from and to~~ *to and from* those ports.

~~(b) The operation of the ports causes environmental pollution~~

(b) *The operation of the ports and trains, ships, and trucks that move cargo containers to and from the ports cause air pollution* that requires mitigation.

(c) The improvement of goods movement infrastructure would benefit the owners of container cargo moving through the ports by allowing the owners of the cargo to move container cargo more efficiently *and reliably*, and to move more cargo through those ports.

(d) The reduction of goods movement *air* pollution would benefit the owners of container cargo moving through the ports by meeting federal air quality standards, which will allow for continued federal funding of goods movement infrastructure projects.

(e) Accordingly, it is the intent of the Legislature to alleviate these burdens by imposing a fee on shipping containers processed through those ports and using the funds derived from that fee to do both of the following:

(1) Improve the rail system that serves as an alternative to shipping on the highway by commercial vehicle, including, but not limited to, the ondock rail facilities at those ports.

~~(2) Mitigate the environmental pollution caused by port operations.~~

1 (2) *Mitigate the air pollution resulting from port operations*
2 *moving container cargo.*

3 ~~1741. (a) There is hereby established in the State Treasury the~~
4 ~~Southern California Port Congestion Relief Trust Fund.~~

5 ~~(b) There is hereby established in the State Treasury the~~
6 ~~Southern California Port Mitigation Relief Trust Fund.~~

7 ~~(c) There is hereby established in the State Treasury the Northern~~
8 ~~California Port Congestion Relief Trust Fund.~~

9 ~~(d) There is hereby established in the State Treasury the~~
10 ~~Northern California Port Mitigation Relief Trust Fund.~~

11 ~~1743. For purposes of this chapter, the following definitions~~
12 ~~apply:~~

13 ~~(a) “Board” means the State Air Resources Board.~~

14 ~~(b) “Commission” means the California Transportation~~
15 ~~Commission.~~

16 ~~(c) “Northern California Congestion Fund” means the Northern~~
17 ~~California Port Congestion Relief Trust Fund.~~

18 ~~(d) “Northern California Mitigation Fund” means the Northern~~
19 ~~California Port Mitigation Relief Trust Fund.~~

20 ~~(e) “Port” means the Port of Los Angeles, Port of Long Beach,~~
21 ~~or Port of Oakland, as appropriate.~~

22 ~~(f) “Southern California Congestion Fund” means the Southern~~
23 ~~California Port Congestion Relief Trust Fund.~~

24 ~~(g) “Southern California Mitigation Fund” means the Southern~~
25 ~~California Port Mitigation Relief Trust Fund.~~

26 ~~1741. (a) There is hereby established the Southern California~~
27 ~~Goods Movement Authority. The authority shall be composed of~~
28 ~~one representative from each of the following:~~

29 ~~(1) The Port of Los Angeles, appointed by the Los Angeles Board~~
30 ~~of Harbor Commissioners.~~

31 ~~(2) The Port of Long Beach, appointed by the Long Beach Board~~
32 ~~of Harbor Commissioners.~~

33 ~~(3) The City of Los Angeles, appointed by the Mayor of Los~~
34 ~~Angeles.~~

35 ~~(4) The City of Long Beach, appointed by the Mayor of Long~~
36 ~~Beach.~~

37 ~~(5) The Los Angeles County Metropolitan Transportation~~
38 ~~Authority, appointed by the board of directors of the Los Angeles~~
39 ~~County Metropolitan Transportation Authority.~~

1 (6) *The Orange County Transportation Authority, appointed*
2 *by the board of directors of the Orange County Transportation*
3 *Authority.*

4 (7) *The Riverside County Transportation Commission.*

5 (8) *The San Bernardino Associated Governments.*

6 (9) *The Alameda Corridor East Construction Authority.*

7 (b) *The authority shall be organized solely for the purpose of*
8 *establishing a priority list of projects pursuant to Section 1750.*
9 *Each representative shall have one vote when determining the list*
10 *of projects. When deciding on a list of projects, the authority shall*
11 *have at least a majority of its members supporting the list that is*
12 *transmitted to the California Transportation Commission.*

13 (c) *For organization and meeting purposes, the Alameda*
14 *Corridor Transportation Authority shall provide staff and meeting*
15 *space for the authority and shall be reimbursed for these*
16 *administrative expenses pursuant to Sections 1745 and 1746. All*
17 *public meeting laws that apply to the City of Long Beach and the*
18 *City of Los Angeles shall apply to the authority.*

19 1743. *For purposes of this chapter, the following definitions*
20 *apply:*

21 (a) *“Authority” means the Southern California Goods Movement*
22 *Authority.*

23 (b) *“Board” means the State Air Resources Board.*

24 (c) *“Commission” means the California Transportation*
25 *Commission.*

26 (d) *“District” means the Bay Area Air Quality Management*
27 *District or the South Coast Air Quality Management District, as*
28 *appropriate.*

29 (e) *“MTC” means the Metropolitan Transportation Commission.*

30 (f) *“Port” means the Port of Los Angeles, the Port of Long*
31 *Beach, or the Port of Oakland, otherwise known as the City of*
32 *Oakland acting by and through its Board of Port Commissioners,*
33 *as appropriate.*

34 (g) *“Port of Oakland Congestion Fund” means the Port of*
35 *Oakland Congestion Relief Trust Fund.*

36 (h) *“Port of Oakland congestion relief container fee revenue”*
37 *means income and receipts derived by that port from Port of*
38 *Oakland congestion relief container fees.*

39 (i) *“Port of Oakland Congestion Relief Container Fee Revenue*
40 *Bonds” means revenue bonds issued pursuant to the City of*

1 *Oakland City Charter that are payable from Port of Oakland*
2 *congestion relief container fee revenue.*

3 (j) *“Port of Oakland congestion relief container fees” means*
4 *all user fees that are imposed pursuant to Section 1747 and*
5 *remitted to the Port of Oakland Congestion Fund.*

6 (k) *“Port of Oakland congestion relief project” means each*
7 *project for public development facilities and economic facilities*
8 *for which the expenditure of funds has been approved by the*
9 *commission pursuant to Section 1751.*

10 (l) *“Port of Oakland Mitigation Fund” means the Port of*
11 *Oakland Mitigation Relief Trust Fund.*

12 (m) *“Port of Oakland mitigation relief container fee revenue”*
13 *means income and receipts derived by the port from Port of*
14 *Oakland mitigation relief container fees.*

15 (n) *“Port of Oakland Mitigation Relief Container Fee Revenue*
16 *Bonds” means revenue bonds issued pursuant to the City of*
17 *Oakland City Charter that are payable from Port of Oakland*
18 *mitigation relief container fee revenue.*

19 (o) *“Port of Oakland mitigation relief container fees” means*
20 *all user fees that are imposed pursuant to Section 1747 and*
21 *remitted to the Port of Oakland Mitigation Fund.*

22 (p) *“Port of Oakland mitigation relief project” means each*
23 *project for public development facilities and economic development*
24 *facilities for which the expenditure of funds has been approved by*
25 *the State Air Resources Board pursuant to Section 1753.*

26 (q) *“San Pedro Bay Ports” means the Ports of Los Angeles and*
27 *Long Beach.*

28 (r) *“San Pedro Bay Ports Congestion Fund” means the San*
29 *Pedro Bay Ports Congestion Relief Trust Fund.*

30 (s) *“San Pedro Bay Ports congestion relief container fee*
31 *revenue” means income and receipts derived by the San Pedro*
32 *Bay Ports from San Pedro Bay Ports congestion relief container*
33 *fees.*

34 (t) *“San Pedro Bay Ports Congestion Relief Container Fee*
35 *Revenue Bonds” means revenue bonds issued by the San Pedro*
36 *Bay Ports that are payable from San Pedro Bay Ports congestion*
37 *relief container fee revenue.*

38 (u) *“San Pedro Bay Ports congestion relief container fees”*
39 *means all user fees that are imposed pursuant to Sections 1745*

1 *and 1746 and remitted to the San Pedro Bay Ports Congestion*
2 *Fund.*

3 (v) *“San Pedro Bay Ports congestion relief project” means each*
4 *project for public development facilities and economic development*
5 *facilities for which the expenditure of funds has been approved by*
6 *the authority pursuant to Section 1750.*

7 (w) *“San Pedro Bay Ports Mitigation Fund” means the San*
8 *Pedro Bay Ports Mitigation Relief Trust Fund.*

9 (x) *“San Pedro Bay Ports mitigation relief container fee*
10 *revenue” means income and receipts derived by the San Pedro*
11 *Bay Ports from San Pedro Bay Ports mitigation relief container*
12 *fees.*

13 (y) *“San Pedro Bay Ports Mitigation Relief Container Fee*
14 *Revenue Bonds” means revenue bonds issued by the San Pedro*
15 *Bay Ports that are payable from San Pedro Bay Ports mitigation*
16 *relief container fee revenue.*

17 (z) *“San Pedro Bay Ports mitigation relief container fees”*
18 *means all user fees that are imposed pursuant to Sections 1745*
19 *and 1746 and remitted to the San Pedro Bay Ports Mitigation*
20 *Fund.*

21 (aa) *“San Pedro Bay Ports mitigation relief project” means*
22 *each project for public development facilities and economic*
23 *development facilities for which the expenditure of funds has been*
24 *approved by the South Coast Air Quality Management District*
25 *pursuant to Section 1752.*

26 *1744. The provisions of this chapter are severable. If any*
27 *provision of this chapter or its application is held invalid, that*
28 *invalidity shall not affect other provisions or applications that can*
29 *be given effect without the invalid provision or application.*

30
31 Article 2. User Fee
32

33 1745. (a) Beginning January 1, 2008, the Port of Los Angeles
34 shall develop a process for notifying the owner of, and collecting
35 a user fee from the owner of, container cargo moving through the
36 port.

37 (b) No later than June 1, 2008, the port shall notify the owner
38 of cargo moving through the port that it will be assessed a user fee
39 not to exceed thirty dollars (\$30) per 20-foot equivalent unit (TEU).
40 The notice shall include, but not be limited to, the process for

1 payment of the user fee, the frequency for payment of the user fee,
2 and that the user fee is being assessed to improve the goods
3 movement infrastructure serving the port, to reduce *air* pollution
4 from all forms of equipment, vehicles, locomotives, and ships that
5 operate at the port and bring containers to and from the port.

6 (c) Beginning January 1, 2009, the port shall assess a user fee
7 on the owner of container cargo moving through the port not to
8 exceed thirty dollars (\$30) per TEU. The port shall collect the fee
9 at least twice a year.

10 ~~(1) The port shall remit one-half of the user fee to the Southern~~
11 ~~California~~

12 *(1) The San Pedro Bay Ports shall establish and maintain a*
13 *special purpose trust fund named the San Pedro Bay Ports*
14 *Congestion Relief Trust Fund. The port shall remit one-half of the*
15 *user fee to the San Pedro Bay Ports Congestion Fund. Upon*
16 ~~appropriation, moneys~~ *Moneys* deposited in that fund shall be
17 available for expenditure by the ~~commission~~ *authority* exclusively
18 for the purposes of funding projects that improve the flow and
19 efficiency of container cargo to and from the Port of Los Angeles,
20 and to fund the administrative costs of this program. Moneys
21 deposited in that fund shall not be loaned or transferred to, or
22 allocated or appropriated in any other way to, the General Fund.
23 *to the general fund of the Port or City of Los Angeles or the Port*
24 *or City or Long Beach.*

25 ~~(2) The port shall remit one-half of the user fee to the Southern~~
26 ~~California~~

27 *(2) The San Pedro Bay Ports shall establish and maintain a*
28 *special purpose trust fund named the San Pedro Bay Ports*
29 *Mitigation Relief Trust Fund. The port shall remit one-half of the*
30 *user fee to the San Pedro Bay Ports Mitigation Relief Trust*
31 *Mitigation Fund. Upon appropriation, moneys* *Moneys* deposited
32 in that fund shall be available for expenditure by the ~~board~~ *South*
33 *Coast Air Quality Management District* to mitigate ~~environmental~~
34 *air* pollution caused by the movement of *container* cargo to and
35 from the Port of Los Angeles by commercial motor vehicles,
36 oceangoing vessels, and rail, and to fund the administrative costs
37 of this program. Moneys deposited in that fund shall not be loaned
38 or transferred to, or allocated or appropriated in any other way to,
39 the General Fund. *or transferred to the general fund of the Port*
40 *or City of Los Angeles or the Port or City of Long Beach.*

(d) The port may contract with PierPass for the collection of the user fee authorized pursuant to this section.

1746. (a) Beginning January 1, 2008, the Port of Long Beach shall develop a process for notifying the owner of, and collecting a user fee from the owner of, container cargo moving through the port.

(b) No later than June 1, 2008, the port shall notify the owner of cargo moving through the port that it will be assessed a user fee not to exceed thirty dollars (\$30) per 20-foot equivalent unit (TEU). The notice shall include, but not be limited to, the process for payment of the user fee, the frequency for payment of the user fee, and that the user fee is being assessed to improve the goods movement infrastructure serving the port, to reduce *air* pollution from all forms of equipment, vehicles, locomotives, and ships that operate at the port and bring containers to and from the port.

(c) Beginning January 1, 2009, the port shall assess a user fee on the owner of container cargo moving through the port not to exceed thirty dollars (\$30) per TEU. The port shall collect the fee at least twice a year.

~~(1) The port shall remit one-half of the user fee to the Southern California~~

~~(1) The San Pedro Bay Ports shall establish and maintain a special purpose trust fund named the San Pedro Bay Ports Congestion Relief Trust Fund. The port shall remit one-half of the user fee to the San Pedro Bay Ports Congestion Fund. Upon appropriation, moneys~~ Moneys deposited in that fund shall be available for expenditure by the ~~commission~~ authority exclusively for the purposes of funding projects that improve the flow and efficiency of container cargo to and from the Port of Long Beach, and to fund the administrative costs of this program. Moneys deposited in that fund shall not be loaned or transferred to, or allocated or appropriated in any other way to, the General Fund. ~~to the general fund of the Port or City of Los Angeles or the Port or City of Long Beach.~~

~~(2) The port shall remit one-half of the user fee to the Southern California~~

~~(1) The San Pedro Bay Ports shall establish and maintain a special purpose trust fund named the San Pedro Bay Ports Congestion Relief Trust Fund. The port shall remit one-half of the user fee to the San Pedro Bay Ports Mitigation Fund. Upon~~

~~appropriation, moneys~~ Moneys deposited in that fund shall be available for expenditure by the ~~board~~ *South Coast Air Quality Management District* to mitigate ~~environmental~~ air pollution caused by the movement of *container* cargo to and from the Port of Long Beach by commercial motor vehicles, oceangoing vessels, and rail, and to fund the administrative costs of this program. Moneys deposited in that fund shall not be loaned or transferred to, or allocated or appropriated in any other way to, the ~~General Fund~~, or transferred to the *general fund of the Port or City of Los Angeles or the Port or City of Long Beach*.

(d) The port may contract with PierPass for the collection of the user fee authorized pursuant to this section.

1747. (a) Beginning January 1, 2008, the Port of Oakland shall develop a process for notifying the owner of, and collecting a user fee from the owner of, container cargo moving through the port.

(b) No later than June 1, 2008, the port shall notify the owner of *container* cargo moving through the port that it will be assessed a user fee not to exceed thirty dollars (\$30) per 20-foot equivalent unit (TEU). The notice shall include, but not be limited to, the process for payment of the user fee, the frequency for payment of the user fee, and that the user fee is being assessed to improve the goods movement infrastructure serving the port, to reduce *air* pollution from all forms of equipment, vehicles, locomotives, and ships that operate at the port and bring containers to and from the port.

(c) Beginning January 1, 2009, the port shall assess a user fee on the owner of container cargo moving through the port not to exceed thirty dollars (\$30) per TEU. The port shall collect the fee at least twice a year.

~~(1) The port shall remit one-half of the user fee to the Northern California~~

(1) The port shall establish and maintain a special purpose trust fund named the Port of Oakland Congestion Relief Trust Fund and remit one-half of the user fee to the Port of Oakland Congestion Fund. ~~Upon appropriation, moneys~~ Moneys deposited in that fund shall be available for expenditure by the commission exclusively for the purposes of funding projects that improve the flow and efficiency of container cargo to and from the Port of Oakland and to fund the administrative costs of this program. Moneys deposited in that fund shall not be loaned or transferred

1 ~~to, or allocated or appropriated in any other way to, the General~~
2 ~~Fund. to the general fund of the Port or City of Oakland.~~

3 ~~(2) The port shall remit one-half of the user fee to the Northern~~
4 ~~California~~

5 *(2) The port shall establish and maintain a special purpose trust*
6 *fund named the Port of Oakland Mitigation Relief Trust Fund and*
7 *remit one-half of the user fee to the Port of Oakland Mitigation*
8 *Fund. Upon appropriation, moneys* Moneys *deposited in that fund*
9 *shall be available for expenditure by the board to mitigate*
10 *environmental air pollution caused by the movement of container*
11 *cargo to and from the port by commercial motor vehicles,*
12 *oceangoing vessels, and rail, and to fund the administrative costs*
13 *of this program. Moneys deposited in that fund shall not be loaned*
14 *or transferred to, or allocated or appropriated in any other way to,*
15 *the General Fund. transferred to the general fund of the Port or*
16 *City of Oakland.*

17 ~~(d) The port may contract with PierPass for the collection of~~
18 ~~the user fee authorized pursuant to this section.~~

19
20 Article 3. Congestion Relief and Mitigation Relief Projects
21

22 1750. (a) Beginning January 1, 2008, ~~the commission~~ authority
23 shall develop a list of projects that would improve the overall
24 efficiency of container cargo movement to and from the Ports of
25 Los Angeles and Long Beach by improving the rail system and
26 container transportation systems that transport container cargo
27 ~~from and to~~ to and from those ports and the ondock rail facilities
28 at those ports. In the process for selecting projects, ~~the commission~~
29 ~~authority~~ shall consult with ~~the transportation commissions for~~
30 ~~the Counties of Los Angeles, Orange, Riverside, San Bernardino,~~
31 ~~and Ventura, the Port of Los Angeles, the City of Los Angeles,~~
32 ~~the Port of Long Beach, the City of Long Beach, and the Southern~~
33 ~~California Association of Governments. The commission shall~~
34 ~~hold public hearings to seek further input on developing these~~
35 ~~projects, with at least one hearing at or near the Port of Los Angeles~~
36 ~~and the Port of Long Beach. the commission and the Southern~~
37 ~~California Association of Governments. The authority shall hold~~
38 ~~public hearings to seek further input on developing these projects,~~
39 ~~including at least one hearing at or near the Port of Los Angeles~~
40 ~~and the Port of Long Beach. The authority shall compile this list,~~

1 *in priority order, and submit it to the commission no later than*
2 *April 1, 2008. If the commission rejects the list, the authority shall*
3 *compile a new list and submit it to the commission.*

4 (b) No later than September 1, 2008, the commission, at a public
5 hearing, shall ~~finalize a list of projects~~ *approve a project list*
6 *submitted by the authority* that would improve the overall
7 efficiency of container cargo movement to and from the Ports of
8 Los Angeles and Long Beach by improving the rail system and
9 container transportation systems that transport container cargo
10 ~~from and to~~ *to and from* those ports and the ondock rail facilities
11 at those ports. This will be the final list, of infrastructure projects
12 at the Ports of Los Angeles and Long Beach, eligible to be funded
13 by the user fee authorized pursuant to this chapter. *The commission*
14 *shall not change the list of projects submitted by the authority.*
15 *The commission may only accept or reject the entire list of projects.*
16 *If the commission has not approved a list of projects by September*
17 *1, 2008, the most recent list of projects submitted to the commission*
18 *by the authority shall become the final list of projects.*

19 ~~(e) Projects eligible to be on the final list shall not be used to~~
20 ~~construct, maintain, or improve highways, unless the highway or~~
21 ~~road improvement is part of a rail grade separation, or the highway~~
22 ~~improvement is done to separate container cargo from motor~~
23 ~~vehicle traffic by creating on ramps or off ramps for port container~~
24 ~~truck traffic.~~

25 (c) *Funds from the San Pedro Bay Ports Congestion Fund shall*
26 *be used only for projects that improve the movement of container*
27 *cargo by rail, or for projects that construct, maintain, or improve*
28 *a road or highway that is part of a road or highway rail grade*
29 *separation. A rail grade separation does not include a road or*
30 *highway going above or beneath another road or highway. To*
31 *qualify, a rail grade separation project shall reduce conflicts*
32 *between trains carrying container cargo and motor vehicles, or*
33 *reduce conflicts between trains carrying container cargo and other*
34 *trains carrying container cargo.*

35 ~~(d) In awarding funds pursuant to this section, the commission~~
36 (d) *In determining which projects to include in the list of projects*
37 *and in what order of priority, the authority shall give priority to*
38 *those projects that have been designed to measurably reduce air*
39 *pollution and environmental impacts to local communities, and to*
40 *assist in achieving and maintaining state and federal air quality*

standards and enhancing environmental performance, while addressing the overall efficiency of container cargo movement.

~~(e) On January 1, 2009, and annually thereafter, the Ports of Long Beach and Los Angeles shall report to the commission on the implementation of the Final 2006 San Pedro Bay Clean Air Action Plan. Each port shall report to the commission on whether the emission reduction goals for the source specific categories have been achieved as follows:~~

~~(1) Heavy-duty vehicles by 2011.~~

~~(2) Cargo handling equipment, 2010, 2012, and 2014.~~

~~(3) Harbor craft, 2008 and 2011.~~

~~(4) Locomotives, 2008, 2011, and 2014.~~

~~If any of the source specific emission reduction goals have not been met, the commission shall not award funding to any project, and the commission shall not fund any further projects until the source specific emission reduction goals are achieved, other than projects that have been awarded funding prior to this finding.~~

(e) Beginning January 1, 2010, the board shall evaluate the emissions from heavy-duty vehicles, container cargo handling equipment, harbor craft, and locomotives at the Ports of Los Angeles and Long Beach, and shall determine if these ports have reduced emissions from those sources to meet the goals of the board's Emission Reduction Plan for Ports and Goods Movement. No later than July 1, 2010, and no later than January 1, 2015, and January 1, 2020, the board shall notify the commission as to whether or not the Ports of Los Angeles and Long Beach have met these goals. If these goals, as determined by the board, have not been met, the commission shall not award funding to a project, other than for on-dock rail and rail and road or highway grade separations, until the board determines that these goals have been met.

(f) For all construction projects funded pursuant to this section, a contractor shall ensure that all mobile nonroad equipment used on the project will be equipped with a California Air Resources Board (CARB) verified diesel particulate filter that obtains at least an 85-percent reduction in emissions, unless any of the following circumstances exists, and the contractor is able to provide proof that any of these circumstances exists:

1 (1) A piece of specialized equipment is unavailable in a
2 controlled form within the state, including through a leasing
3 arrangement.

4 (2) A contractor has applied for incentive funds to put controls
5 on a piece of uncontrolled equipment planned for use on the
6 project, but the application is not yet approved, or the application
7 has been approved, but funds are not yet available.

8 (3) A contractor has ordered a control device for a piece of
9 equipment planned for use on the project, or has ordered a new
10 piece of controlled equipment to replace the uncontrolled
11 equipment, but that order has not been completed by the
12 manufacturer or dealer, and the contractor has attempted to lease
13 controlled equipment, but no dealer within 200 miles of the project
14 has the controlled equipment available for lease.

15 (g) Projects eligible to be considered ~~by the commission~~ *for the*
16 *list by the authority* include, but are not limited to, all of the
17 following:

18 (1) A project to separate at-grade crossings to reduce conflicts
19 between trains and motor vehicles in Los Angeles, Orange,
20 Riverside, and San Bernardino Counties, also known as the
21 Alameda Corridor East Project.

22 (2) A project to improve rail capacity by adding additional tracks
23 to existing rail lines in Los Angeles, Orange, Riverside, and San
24 Bernardino Counties, *which does not disproportionately impact*
25 *low-income communities.*

26 (3) A project to separate at-grade rail crossings in San
27 Bernardino County, also known as the Colton crossing.

28 (4) A project to improve ondock rail infrastructure at the Ports
29 of Los Angeles and Long Beach.

30 (h) In determining which projects to select, ~~the commission~~ *for*
31 *the list, the authority* shall also take into account the entire rail and
32 trade corridor servicing the Ports of Los Angeles and Long Beach.

33 (i) The commission shall only use the funds received from the
34 ~~Southern California San Pedro Bay Ports~~ Congestion Fund to fund
35 projects authorized pursuant to this section.

36 (j) *A project receiving funding pursuant to this section may also*
37 *receive funding from other sources, including, but not limited to,*
38 *local agencies, state sources, federal sources, and private sources.*

39 (j)

1 (k) Once the projects on the final list are completed and fully
2 funded, the commission shall notify the Ports of Los Angeles and
3 Long Beach that the infrastructure projects are completed and ~~to~~
4 *the ports shall* no longer collect the one-half of the user fee for
5 infrastructure projects. The commission may also make a finding
6 that a project on the final list has either been funded by another
7 source or is no longer worthy of funding.

8 (l) *Beginning January 1, 2009, and annually thereafter, the*
9 *Ports of Los Angeles and Long Beach shall report to the*
10 *commission and the transportation committees of the Senate and*
11 *Assembly on the status of the San Pedro Bay Ports Clean Air Action*
12 *Plan.*

13 1751. (a) Beginning January 1, 2008, ~~the commission~~ MTC
14 shall develop a list of projects that would improve the overall
15 efficiency of container cargo movement to and from the Port of
16 Oakland by improving the rail and container transportation systems
17 that transport container cargo ~~from and to~~ *to and from* that port
18 and the ondock rail facilities at that port. In the process for selecting
19 projects, ~~the commission shall consult with the transportation~~
20 ~~commissions for the Counties of Alameda and Contra Costa, the~~
21 ~~Port of Oakland, the City of Oakland, and the Bay Area Association~~
22 ~~of Governments. The commission shall hold public hearings to~~
23 ~~seek further input on developing these projects, including at least~~
24 ~~one hearing in the City of Oakland. MTC shall consult with the~~
25 ~~commission, the Port of Oakland, the City of Oakland, the~~
26 ~~Sacramento Area Council of Governments, the Placer County~~
27 ~~Transportation Planning Agency, and the Council of Fresno~~
28 ~~County Governments. The MTC shall hold public hearings to seek~~
29 ~~further input on developing these projects, including at least one~~
30 ~~hearing in the City of Oakland. The MTC shall compile this list,~~
31 ~~in priority order, and submit it to the commission no later than~~
32 ~~April 1, 2008. If the commission rejects the list, the MTC shall~~
33 ~~compile a new list and submit it to the commission.~~

34 (b) No later than September 1, 2008, the commission, at a public
35 hearing, ~~shall finalize a list of projects~~ *approve a project list*
36 *submitted by the MTC* that would improve the overall efficiency
37 of container cargo movement to and from the Port of Oakland by
38 improving the rail and container transportation systems that
39 transport container cargo ~~from and to~~ *to and from* that port and the
40 ondock rail facilities at that port. This will be the final list, of

1 infrastructure projects at the Port of Oakland, eligible to be funded
2 by the user fee authorized pursuant to this chapter. *The commission*
3 *shall not change the list of projects submitted by the MTC. The*
4 *commission may only accept or reject the entire list of projects. If*
5 *the commission has not approved a list of projects by September*
6 *1, 2008, the most recent list of projects submitted to the commission*
7 *by the MTC shall become the final list of projects.*

8 ~~(e) Projects eligible to be on the final list shall not be used to~~
9 ~~construct, maintain, or improve highways, unless the highway or~~
10 ~~road improvement is part of a rail grade separation, or the highway~~
11 ~~improvement is done to separate container cargo from motor~~
12 ~~vehicle traffic by creating on ramps or off ramps for port container~~
13 ~~truck traffic.~~

14 (c) *Funds from the Port of Oakland Congestion Fund shall be*
15 *used only for projects that improve the movement of container*
16 *cargo by rail, or for projects that construct, maintain, or improve*
17 *a road or highway that is part of a road or highway rail grade*
18 *separation. To qualify, a rail grade separation project shall reduce*
19 *conflicts between trains carrying container cargo and motor*
20 *vehicles.*

21 ~~(d) In awarding funds pursuant to this section, the commission~~
22 (d) *In determining which projects to include in the list of projects*
23 *and in what order of priority, the MTC shall give priority to those*
24 *projects that have been designed to measurably reduce air pollution*
25 ~~and environmental impacts to local communities, and to assist in~~
26 *achieving and maintaining state and federal air quality standards*
27 ~~and enhancing environmental performance, while addressing the~~
28 *overall efficiency of container cargo movement.*

29 (e) *Beginning January 1, 2010, the board shall evaluate the*
30 *emissions from heavy-duty vehicles, container cargo handling*
31 *equipment, harbor craft, and locomotives at the Port of Oakland,*
32 *and shall determine if the port has reduced emissions from those*
33 *sources to meet the goals of the board's Emission Reduction Plan*
34 *for Ports and Goods Movement. No later than July 1, 2010, and*
35 *on no later than January 1, 2015, and January 1, 2020, the board*
36 *shall notify the commission as to whether or not the port has met*
37 *these goals. If these goals, as determined by the board, have not*
38 *been met, the commission shall not award funding to a project,*
39 *other than for on-dock rail, rail improvements on port property,*

1 *and rail and road or highway grade separations, until the board*
2 *determines that these goals have been met.*

3 ~~(e)~~

4 (f) For all construction projects funded pursuant to this section,
5 a contractor shall ensure that all mobile nonroad equipment used
6 on the project will be equipped with a California Air Resources
7 Board (CARB) verified diesel particulate filter that obtains at least
8 an 85 percent reduction in emissions, unless any of the following
9 circumstances exists, and the contractor is able to provide proof
10 that any of these circumstances exists:

11 (1) A piece of specialized equipment is unavailable in a
12 controlled form within the state, including through a leasing
13 arrangement.

14 (2) A contractor has applied for incentive funds to put controls
15 on a piece of uncontrolled equipment planned for use on the
16 project, but the application is not yet approved, or the application
17 has been approved, but funds are not yet available.

18 (3) A contractor has ordered a control device for a piece of
19 equipment planned for use on the project, or has ordered a new
20 piece of controlled equipment to replace the uncontrolled
21 equipment, but that order has not been completed by the
22 manufacturer or dealer, and the contractor has attempted to lease
23 controlled equipment, but no dealer within 200 miles of the project
24 has the controlled equipment available for lease.

25 ~~(f)~~

26 (g) Projects eligible to be considered by the ~~commission~~ MTC
27 include, but are not limited to, projects to separate at-grade
28 crossings to ~~reduce conflicts between trains and motor vehicles~~
29 ~~and on-dock~~ *reduce conflicts between trains carrying container*
30 *cargo and motor vehicles or increase mainline rail capacity for*
31 *moving cargo containers, and on-dock and near-dock rail*
32 *improvements at the Port of Oakland.*

33 ~~(g)~~

34 (h) In determining which projects to select, the ~~commission~~
35 MTC shall also take into account the entire rail and trade corridor
36 *across northern and central California* servicing the Port of
37 Oakland.

38 ~~(h)~~

1 (i) The commission shall only use the funds received from the
2 ~~Northern California Port of Oakland~~ Congestion Fund to fund
3 projects authorized pursuant to this section.

4 (j) *A project receiving funding pursuant to this section may also*
5 *receive funding from other sources, including, but not limited to,*
6 *local agencies, state sources, federal sources, and private sources.*

7 (i)

8 (k) Once the projects on the final list are completed and fully
9 funded, the commission shall notify the Port of Oakland, that the
10 infrastructure projects are completed and ~~to the port shall~~ no longer
11 collect the one-half of the user fee for infrastructure projects. The
12 commission may also make a finding that a project on the final
13 list has either been funded by another source or is no longer worthy
14 of funding.

15 (l) *Beginning January 1, 2009, and annually thereafter, the Port*
16 *of Oakland shall report to the commission and the transportation*
17 *committees of the Senate and Assembly on the status of the port's*
18 *clean air action plan.*

19 1752. (a) Beginning January 1, 2008, the ~~board~~ South Coast
20 Air Quality Management District (district) shall develop a list of
21 projects that reduce air pollution caused by the movement of
22 container cargo to and from the Ports of Los Angeles and Long
23 Beach. The projects on the list shall be consistent with the Emission
24 Reduction Plan (ERP) adopted April 2006, and shall be designed
25 to reduce air pollution at those ports in order to achieve and
26 maintain state and federal air quality standards and to meet the
27 ERP's goals for 2010, 2015, and 2020, as well as the goals for the
28 Air Quality Management Plan prepared by the South Coast Air
29 Quality Management District, and the San Pedro Bay Clean Air
30 Action Plan. In developing the list, the ~~board~~ district shall consult
31 with the ~~South Coast Air Quality Management District board~~, the
32 Gateway Council of Governments, and the Ports of Los Angeles
33 and Long Beach. The ~~board~~ district shall hold public hearings
34 before developing the list of projects, ~~with~~ including at least one
35 hearing being held at or near the Ports of Los Angeles and Long
36 Beach. *The district shall compile this list, in priority order, and*
37 *submit it the board no later than April 1, 2008.*

38 ~~(b) The board shall work with the South Coast Air Quality~~
39 ~~Management District, the Port of Los Angeles, and the Port of~~

1 ***(b) The district shall work with the Port of Los Angeles and the***
2 ***Port of Long Beach in order to ensure that projects within the Air***
3 ***Quality Management Plan prepared by the South Coast Air Quality***
4 ***Management District district and within the San Pedro Bay Clean***
5 ***Air Action Plan are completed or implemented. The board may***
6 ***provide funding to the district in order to implement the Air Quality***
7 ***Management Plan prepared by the district, and to the ports in order***
8 ***to implement the San Pedro Bay Clean Air Action Plan.***

9 ***(c) Projects eligible to be considered by the district include, but***
10 ***are not limited to, the following:***

11 ***(1) The replacement, repowering, or retrofitting of heavy-duty***
12 ***diesel vehicles that move cargo containers to and from the Port***
13 ***of Los Angeles or the Port of Long Beach, not otherwise required***
14 ***by any federal or state law or regulation.***

15 ***(2) The replacement, repowering, or retrofitting of locomotive***
16 ***engines that move cargo containers to and from the Port of Los***
17 ***Angeles or the Port of Long Beach, not otherwise required by any***
18 ***federal or state law or regulation.***

19 ***(3) Funding through grants of the incremental cost of using a***
20 ***low-sulfur fuel, not otherwise required by statute or regulation,***
21 ***on ocean going vessels that carry cargo containers to and from***
22 ***the Port of Los Angeles or the Port of Long Beach.***

23 ***(4) The provision of mobile or portable shore side distributed***
24 ***power generation to ocean-going cargo container vessels that***
25 ***eliminates the need to use the electricity grid at the Port of Los***
26 ***Angeles or the Port of Long Beach, and that has been tested and***
27 ***verified by the board or a local air quality management district.***

28 ***(5) The electrification of the rail infrastructure used to move***
29 ***cargo containers to and from the Port of Los Angeles or the Port***
30 ***of Long Beach.***

31 ***(6) The provision of shore side electrical power generation to***
32 ***ocean-going cargo container vessels, moving cargo containers to***
33 ***and from the Port of Los Angeles or the Port of Long Beach, not***
34 ***otherwise required by any federal or state law or regulation.***

35 ***(7) Container cargo-handling equipment, handling cargo***
36 ***containers at the Port of Los Angeles or the Port of Long Beach,***
37 ***not otherwise required by any federal or state law or regulation.***

38 ***(e)***

39 ***(d) No later than September 1, 2008, the board, at a public***
40 ***hearing, shall finalize accept a list of projects that meet from the***

1 *district that meets the ERP's goals for 2010, 2015, and 2020, in*
2 *order to meet or maintain federal air quality attainment standards.*
3 *If the board has not approved a list of projects by September 1,*
4 *2008, the most recent list of projects submitted to the board by the*
5 *district shall become the final list of projects.*

6 ~~(d)~~

7 (e) The board may determine, at a public hearing, that the
8 emission reduction goals for 2020 have been met or exceeded and
9 that *projects that reduce emissions from the movement of cargo*
10 *containers to and from the Port of Los Angeles that are designed*
11 *to achieve federal air quality standards have been met in the South*
12 ~~*Coast Air Basin*~~ *implemented, including full implementation of*
13 *projects that reduce emissions from the movement of cargo*
14 *containers to and from the Port of Los Angeles contained within*
15 *the Air Quality Management Plan prepared by the South Coast*
16 ~~*Air Quality Management District*~~ *district. Once the determination*
17 *is made, and ensuring that all approved projects have been funded,*
18 *the board shall notify the Port of Los Angeles of this determination,*
19 *and the Port of Los Angeles shall no longer collect the one-half*
20 *of the user fee for air quality projects meant to reach these goals*
21 *and federal air quality attainment standards.*

22 ~~(e)~~

23 (f) The board may determine, at a public hearing, that the
24 emission reduction goals for 2020 have been met or exceeded and
25 that *projects that reduce emissions from the movement of cargo*
26 *containers to and from the Port of Long Beach that are designed*
27 *to achieve federal air quality standards have been met in the South*
28 ~~*Coast Air Basin*~~ *implemented, including full implementation of*
29 *projects that reduce emissions from the movement of cargo*
30 *containers to and from the Port of Long Beach contained within*
31 *the Air Quality Management Plan prepared by the South Coast*
32 ~~*Air Quality Management District*~~ *district. Once the determination*
33 *is made, and ensuring that all approved projects have been funded,*
34 *the board shall notify the Port of Long Beach of this determination,*
35 *and the Port of Long Beach shall no longer collect the one-half of*
36 *the user fee for air quality projects meant to reach these goals and*
37 *federal air quality attainment standards.*

38 ~~(f)~~

1 (g) The board shall only use the funds received from the
2 ~~Southern California San Pedro Bay Ports~~ Mitigation Fund to fund
3 projects authorized pursuant to this section.

4 (h) *A project receiving funding pursuant to this section may*
5 *also receive funding from other sources, including, but not limited*
6 *to, local agencies, state sources, federal sources, and private*
7 *sources.*

8 1753. (a) Beginning January 1, 2008, the ~~board~~ Bay Area Air
9 Quality Management District (district) shall develop a list of
10 projects that reduce air pollution caused by the movement of
11 container cargo to and from the Port of Oakland. The projects on
12 the list shall be consistent with the Emission Reduction Plan (ERP)
13 adopted April 2006, and shall be designed to reduce air pollution
14 at the port in order to achieve and maintain state and federal air
15 quality standards and to meet the ERP's goals for 2010, 2015, and
16 2020. In developing the list, the ~~board~~ district shall consult with
17 ~~the Bay Area Air Quality Management District and the Port of~~
18 ~~Oakland.~~ *the board, the Sacramento Metropolitan Air Quality*
19 *Management District, the San Joaquin Air Pollution Control*
20 *District, and the Port of Oakland. The district shall compile this*
21 *list, in priority order, and submit it to the board no later than April*
22 *1, 2008. If the board rejects the list, the district shall compile a*
23 *new list and submit it to the board.*

24 ~~(b) If the Bay Area Air Quality Management District and the~~
25 ~~Port of Oakland~~

26 *(b) In consultation with the port, the district shall develop a*
27 *plan to reduce emissions from the Port of Oakland, then the board*
28 *shall work with the district and the port of Oakland and submit the*
29 *plan to the board. The board and the district shall work with the*
30 *port in order to ensure that projects within the plan are completed*
31 *or implemented to the maximum extent feasible. The board may*
32 *provide funding to the district or the port in order to achieve the*
33 *goals of the plan.*

34 (c) *Projects eligible to be considered by the district include, but*
35 *are not limited to, the following:*

36 *(1) The replacement, repowering, or retrofitting of heavy-duty*
37 *diesel vehicles that move cargo containers to and from the Port*
38 *of Oakland, not otherwise required by any federal or state law or*
39 *regulation.*

1 (2) *The replacement, repowering, or retrofitting of locomotive*
2 *engines that move cargo containers to and from the Port of*
3 *Oakland, not otherwise required by any federal or state law or*
4 *regulation.*

5 (3) *Funding through grants of the incremental cost of using a*
6 *low-sulfur fuel, not otherwise required by statute or regulation,*
7 *on ocean going vessels that carry cargo containers to and from*
8 *the Port of Oakland.*

9 (4) *The provision of mobile or portable shore side distributed*
10 *power generation to ocean-going cargo container vessels that*
11 *eliminates the need to use the electricity grid at the Port of*
12 *Oakland, and that has been tested and verified by the board or a*
13 *local air quality management district.*

14 (5) *The electrification of infrastructure used within a marine*
15 *terminal that handles cargo containers in the Port of Oakland.*

16 (6) *The provision of shore side electrical power generation to*
17 *ocean going cargo container vessels, moving cargo containers to*
18 *and from the Port of Oakland, not otherwise required by any*
19 *federal or state law or regulation.*

20 (7) *Container cargo-handling equipment, handling cargo*
21 *containers at the Port of Oakland, not otherwise required by any*
22 *federal or state law or regulation.*

23 ~~(e)~~

24 (d) No later than September 1, 2008, the board, at a public
25 hearing, shall ~~finalize approve~~ a list of projects that meet the ERP's
26 goals ~~for 2010, 2015, and 2020, in order to meet federal air quality~~
27 ~~attainment standards for 2010, 2015, and 2020 that are consistent~~
28 *with the plan developed pursuant to subdivision (c), to meet or*
29 *maintain federal air quality standards. If the board has not*
30 *approved a list of projects by September 1, 2008, the most recent*
31 *list of projects submitted to the board by the district shall become*
32 *the final list of projects.*

33 ~~(d)~~

34 (e) The board may determine, at a public hearing, that the
35 emission reduction goals for 2020 have been met or exceeded and
36 that *projects that reduce emissions from the movement of cargo*
37 *containers to and from the port and are designed to achieve federal*
38 *air quality standards have been met within the Bay Area Air*
39 *Quality Management District implemented, and once the*
40 *determination is made, and ensuring that all approved projects*

have been funded, the board shall notify the Port of Oakland of this determination, and the Port of Oakland shall no longer collect the one-half of the user fee for air quality projects meant to reach these goals and federal air quality attainment standards.

(e)

(f) The board shall only use the funds received from the ~~Northern California~~ Port of Oakland Mitigation Fund to fund projects authorized pursuant to this section.

(g) A project receiving funding pursuant to this section may also receive funding from other sources, including, but not limited to, local agencies, state sources, federal sources, and private sources.

Article 4. Financing Provisions

1760. (a) Pursuant to the authority of the San Pedro Bay Ports, the San Pedro Bay Ports may enter into financing agreements with participating parties for the purpose of financing or refinancing San Pedro Bay Ports congestion relief projects and San Pedro Ports mitigation relief projects.

(b) As authorized, the San Pedro Bay Ports may issue bonds as San Pedro Bay Ports Congestion Relief Container Fee Revenue Bonds to finance or refinance San Pedro Bay Ports congestion relief projects and as San Pedro Bay Ports Mitigation Relief Container Fee Revenue Bonds to finance or refinance San Pedro Bay Ports mitigation relief projects.

(c) The principal of and interest and redemption premiums on San Pedro Bay Ports Congestion Relief Container Fee Revenue Bonds and San Pedro Bay Ports Mitigation Relief Container Fee Revenue Bonds shall be payable from, and secured by, San Pedro Bay Ports congestion relief container fee revenue and San Pedro Bay Ports mitigation relief container fee revenue, respectively, as and to the extent provided in the constituent instruments defining the rights of the holders of the bonds.

1761. (a) Pursuant to the procedures in the City of Oakland City Charter, the Port of Oakland may enter into financing agreements with participating parties for the purpose of financing or refinancing Port of Oakland congestion relief projects and Port of Oakland mitigation relief projects.

1 (b) As authorized, the Port of Oakland may issue bonds as Port
2 of Oakland Congestion Relief Container Fee Revenue Bonds to
3 finance or refinance Port of Oakland congestion relief projects
4 and as Port of Oakland Mitigation Relief Container Fee Revenue
5 Bonds to finance or refinance Port of Oakland mitigation relief
6 projects.

7 (c) The principal of and interest and redemption premiums on
8 Port of Oakland Congestion Relief Container Fee Revenue Bonds
9 and Port of Oakland Mitigation Relief Container Fee Revenue
10 Bonds shall be payable from, and secured by, Port of Oakland
11 congestion relief container fee revenue and Port of Oakland
12 mitigation relief container fee revenue, respectively, as and to the
13 extent provided in the constituent instruments defining the rights
14 of the holders of the bonds.

15 1762. The San Pedro Bay Ports may pledge all or any portion
16 of the San Pedro Bay Ports congestion relief container fees to
17 secure San Pedro Bay Ports Congestion Relief Container Fee
18 Revenue Bonds, and credit facilities for these bonds, and all or
19 any portion of the San Pedro Bay Ports Mitigation Relief Container
20 Fee Revenue Bonds, and credit facilities for these bonds. All San
21 Pedro Bay Ports congestion relief container fees and San Pedro
22 Bay Ports mitigation relief container fees so pledged shall be paid
23 to the indenture trustee for these bonds each month, from the San
24 Pedro Bay Ports Congestion Relief Trust Fund and the San Pedro
25 Bay Ports Mitigation Relief Trust Fund for so long as any of the
26 bonds are outstanding. Any San Pedro Bay Ports congestion relief
27 container fees and San Pedro Bay Ports mitigation relief container
28 fees that are not required to be retained by the indenture trustee
29 pursuant to the constituent instruments defining the rights of the
30 holders of the bonds shall be remitted by the indenture trustee to
31 the San Pedro Bay Ports Congestion Relief Trust Fund and the
32 San Pedro Bay Ports Mitigation Relief Trust Fund and shall be
33 disbursed at the request of the authority and the district,
34 respectively, for San Pedro Bay Ports congestion relief projects
35 and San Pedro Bay Ports mitigation relief projects.

36 1763. The Port of Oakland may pledge all or any portion of
37 the Port of Oakland congestion relief container fees to secure Port
38 of Oakland Congestion Relief Container Fee Revenue Bonds, and
39 credit facilities for these bonds, and all or any portion of the Port
40 of Oakland Mitigation Relief Container Fee Revenue Bonds, and

1 *credit facilities for these bonds. All Port of Oakland congestion*
2 *relief container fees and Port of Oakland mitigation relief*
3 *container fees so pledged shall be paid to the indenture trustee for*
4 *these bonds each month, from the Port of Oakland Congestion*
5 *Relief Trust Fund and the Port of Oakland Mitigation Relief Trust*
6 *Fund for so long as any of the bonds are outstanding. Any Port of*
7 *Oakland congestion relief container fees and Port of Oakland*
8 *mitigation relief container fees that are not required to be retained*
9 *by the indenture trustee pursuant to the constituent instruments*
10 *defining the rights of the holders of the bonds shall be remitted by*
11 *the indenture trustee to the Port of Oakland Congestion Relief*
12 *Trust Fund and the Port of Oakland Mitigation Relief Trust Fund*
13 *and shall be disbursed at the request of the commission and the*
14 *board, respectively, for Port of Oakland congestion relief projects*
15 *and Port of Oakland mitigation relief projects.*

16 ~~SEC. 4.~~

17 SEC. 3. Section 1760 of the Harbors and Navigation Code is
18 amended and renumbered to read:

19 1730. (a) For purposes of this section, “council” means the
20 California Marine and Intermodal Transportation System Advisory
21 Council, a regional subunit of the Marine Transportation System
22 National Advisory Council chartered by the federal Secretary of
23 Transportation under the Federal Advisory Council Act (P.L.
24 92-463).

25 (b) The council is requested to do all of the following:

26 (1) Meet, hold public hearings, and compile data on issues that
27 include, but need not be limited to, all of the following:

28 (A) The projected growth of each maritime port in the state.

29 (B) The costs and benefits of developing a coordinated state
30 program to obtain federal funding for maritime port growth,
31 security, and congestion relief.

32 (C) Impacts of maritime port growth on the state’s transportation
33 system.

34 (D) Air pollution caused by movement of goods through the
35 state’s maritime ports, and proposed methods of mitigating or
36 alleviating that pollution.

37 (E) Maritime port security, including, but not limited to, training,
38 readiness, certification of port personnel, exercise planning and
39 conduct, and critical marine transportation system infrastructure
40 protection.

(F) A statewide plan for continuing operation of maritime ports in cooperation with the United States Coast Guard, the federal Department of Homeland Security, the Office of Emergency Services, the state Office of Homeland Security, and the California National Guard, consistent with the state's emergency management system and the national emergency management system, in the event of a major incident or disruption of port operations in one or more of the state's maritime ports.

(G) State marine transportation policy, legislation, and planning; regional infrastructure project funding; competitiveness; environmental impacts; port safety and security; and any other matters affecting the marine transportation system of the United States within, or affecting, the state.

(2) Identify all state agencies that are involved with the development, planning, or coordination of maritime ports in the state.

(3) Identify other states that have a statewide port master plan and determine whether that plan has assisted those states in improving their maritime ports.

(4) Compile all information obtained pursuant to paragraphs (1) to (3), inclusive, and submit its findings in a report to the Legislature not later than January 1, 2006. The report should include, but need not be limited to, recommendations on methods to better manage the growth of maritime ports and address the environmental impacts of moving goods through those ports.

(c) The activities of the council pursuant to this section shall not be funded with appropriations from the General Fund.

~~SEC. 5.~~

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.